

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Monday, November 30, 2004 – 1:00 p.m. – Room W025 House Building

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Sen. Mike Dmitrich  
President Al Mansell  
Sen. Ed Mayne  
Sen. Michael G. Waddoups  
Rep. Greg J. Curtis  
Rep. James R. Gowans  
Rep. Merlynn T. Newbold

**Members Excused:**

Rep. David Ure, House Chair

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Tracey Fredman, Legislative Secretary

**Note:** A list of others present and a copy of related materials can be found at [www.leg.utah.gov](http://www.leg.utah.gov) or by contacting the committee secretary, Tracey Fredman, at 538-1032. A recording of the meeting is available from the committee secretary.

**1. Committee Business**

Chair Stephenson called the meeting to order at 1:15 p.m.

**MOTION:** Rep. Gowans moved to approve the minutes of the November 8, 2004 meeting. The motion passed unanimously. Sen. Dmitrich was absent for the vote.

**2. Compliance with Emergency Rule Filing Standards**

**a. "R623-4 Uniform Procedures for Military and Overseas Citizens Absentee Applications and Ballots"**

Mr. Hunsaker presented the Administrative Rulemaking Act's criteria for filing an emergency rule.

Mr. Gayle F. McKeachnie, Lt. Governor, acknowledged that elected "officers" of the executive branch do not have rulemaking power delegated to them by the legislature, but they do have inherent power to carry out the functions given them in the constitution under the federal law. He explained that the emergency rule being reviewed had to do with instructing counties about which circumstances allow emails and faxes of ballots to be used for citizens living overseas, including those serving in the armed forces. Mr. McKeachnie explained that they thought the rule was necessary because the Lt. Governor's Office is responsible for federal elections in the state.

**b. "R156-1-601 Online Assessment, Diagnosis and Prescribing Protocols"**

Sen. Stephenson introduced the issue. He said the rule added a definition for "branching questionnaire" which allowed a person to remotely receive a prescription for medication.

Mr. Craig Jackson, Director, DOPL (Division of Occupational and Professional Licensing), responded to questions. He acknowledged that the rule probably shouldn't have been filed as an emergency rule and that it should have been done by the regular process earlier in the year.

### **3. R156-11a-302b Deadline for Making Application under Grandfather Clause**

Mr. Hunsaker introduced the issue and said that the concern with the rule is that it restricts the time in which the statutorily-granted grandfather provision can be claimed by a potential licensee.

Mr. Jackson said that in meeting with OLRGC staff, they were unable to find in statute where they are authorized to make a cutoff date.

Mr. Walker explained the reasons for filing the rule. He said that Representative Elect Julie Fisher has requested legislation in which she intends to strike the grandfather provision from the act.

Ms. Candace Daly, lobbyist for Cosmetology Schools Association, said that it was their intent to put a deadline in statute when it was passed three years ago. She said they are working with Representative Elect Fisher on the bill and have already met with OLRGC staff to fix the grandfather provision.

### **4. Clarifying Utah Code Language regarding "Revoking" and "Repealing" Rules**

Mr. Hunsaker distributed draft legislation "Utah Administrative Rulemaking Act Revision" and explained that the intent was to make it clear that agencies have authority to make rules and to repeal them.

Mr. Hansen said that they were trying to resolve inconsistencies and the concern that some people had expressed that the word "revoke" means that the agency could simply "do away with" a rule instead of going through the process.

### **5. Committee Business**

Next meeting will be Wednesday, January 5, 2005, 9:00 a.m.

### **6. Adjourn**

In the absence of a quorum, Chair Stephenson ruled the meeting adjourned at 2:20 p.m.